IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.6423 OF 2005

M/s.Sai Repowering Works Pvt. Ltd. ..Petitioner.

V/s.

Union of India & Ors. ..Respondents.

Ms.Indu Prashant, Advocate i/b. M/s.H.R.Shetty & Co. for petitioner.

Mr.Thakkar, Advocate with Rajiv Chavan for respondents.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 20TH OCTOBER, 2005.

P.C. :-

1. This petition is filed in August, 2005 seeking refund of redemption fine and personal penalty amounting to Rs.19,00,000/- paid by the petitioner to the customs department on 25/5/1998 pursuant to the adjudication order passed in May, 1998 in respect of the goods imported by the petitioner.

2. It is the case of the petitioner that the above fine and penalty was paid by the petitioner pursuant to the oral communication received from the customs authorities. As a copy of the order in

original passed in May, 1998 was not served, by a letter dated 9th November, 1998 the petitioner claims to have called upon the Commissioner of Customs to furnish a copy of the order in original passed in May, 1998 so as to enable the petitioner to file an appeal against the imposition of redemption fine and penalty levied upon the goods imported by the petitioner. In spite of several letters, copy of the order in original passed in May, 1998 has not been furnished and, therefore, the petitioner has filed the present petition in August, 2005.

3. In our opinion, the petition suffers from gross delay and laches. First of all, it is difficult to believe that the customs authorities would orally intimate to the petitioner about the confiscation of the goods and the quantum of redemption fine and penalty levied upon the goods imported by the petitioner and that the petitioner would pay customs duty amounting to Rs.10,36,572/- with redemption fine of Rs.17,50,000/- and penalty of Rs.1,50,000/- on 25/5/1998 and clear the goods without receiving a copy of the adjudication order.

4. Secondly, even assuming that a copy of the adjudication order was not furnished to the petitioner and the petitioner by a letter dated 9/11/1998 had

called for a copy of the adjudication order and in spite of the said letter the customs authorities have not furnished a copy of the adjudication order, then the petitioner ought to have approached this Court expeditiously. Filing of the present petition in August, 2005 i.e. after seven and half years from the date of clearance of the goods is wholly unjustified. Moreover, the revenue submits that in view of the long lapse of time, the file relating to the confiscated goods cleared by the petitioner in the year 1998 on payment of redemption fine is not traceable. The very fact that the petitioner claims to have addressed one letter in November, 1998, another letter on 9/4/2002 and the last letter on 3/1/2005 seeking copy of the order in original passed in May, 1998 clearly shows the casual approach and it appears that the petitioner was not very serious in challenging the order levying redemption fine and penalty on the goods imported by the petitioner. Since the petitioner is not diligent in prosecuting its remedy and is guilty of gross delay, this is not a fit case to grant any relief in exercise of writ jurisdiction.

5. Accordingly, the petition is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)